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**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

I have a great many issues with the proposed Microsoft settlement, and as an aware, informed, and concerned consumer, I want to highlight the one of most concern to me: encouraging competition among ISVs.

1) Require advanced notice of technical requirements.

Section III.H.3 of the Proposed Final Judgment requires competing ISVs of middleware to meet "reasonable" technical requirements seven (7) months before new releases of Windows, yet does not require Microsoft to disclose those requirements. This allows Microsoft to maintain their monopoly by changing the requirements after the seven (7) month deadline has passed.

2) API documentation.

On a related note, Section III.D of the Proposed Final Judgment specifies that release of the APIs to ISVs is not required until final beta of the middleware, yet this does not provide nearly enough time in the beta cycle to allow the ISVs to bring their middleware in line with Windows APIs. And it allows Microsoft another loophole, building on the one mentioned above. And many important APIs would remain undocumented, such as Microsoft.NET.

Furthermore, there are unreasonable restrictions placed on the use of said documentation, especially as relating to writing for a competing operating system, by not allowing those who write applications for a competing operating system along with Windows versions of said applications to see this documentation.

3) File formats

At no part in the Proposed Final Judgment is Microsoft required to disclose any information about the file formats, even though those undocumented Microsoft formats, such as Microsoft Word (commonly called ".doc") and Microsoft Excel (commonly called ".xls"), are part of the Applications Barrier to Entry ("Findings of Fact" paragraphs 20 and 39).

4) Patents covering Windows API remain undisclosed

Section III.I of the Proposed Final Judgment requires Microsoft to license certain of their intellectual property rights, but not to clearly announce which software patents protect the Windows API, creating a barrier to Windows-compatible operating systems, as they are unable to determine whether or not they may be violating Microsoft software patents. This will inhibit market acceptance of those competing operating systems, further maintaining Microsoft's monopoly.

5) Definition of "Windows"

The definition of Windows in the Proposed Final Judgment is excessively narrow; it does not apply to Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box, all of which use the Win32 API, and are advertise as "Windows Powered." In fact, Microsoft themselves have stated that Windows XP Tablet PC Edition is an API-compatible operating system, and will run Windows software. Any

Microsoft operating system software which is even source-compatible, such as Pocket PC, with Windows 2000, Windows XP Home Edition, Windows XP Professional, and their successors, should be covered by the Proposed Final Judgment, as the Windows operating system -- in all its forms -- is the linchpin of the Microsoft monopoly.

It is my considered opinion that this Proposed Final Judgment is utterly inadequate to the stated purpose of ending Microsoft's illegally maintained monopoly. The existence of this monopoly has led to stagnation on the desktop, and cost Americans untold billions of dollars, both directly through Microsoft's damaging practices, and indirectly through causing the industry to standardize around programs rather than protocols, allowing for the spread of viruses such as SirCam and Nimda that exploit weaknesses in Microsoft software. To that extent, I support a much harsher penalty against Microsoft, that will allow the playing field to be leveled, and for ISVs to create truly competing products, and return the desktop computer software market to a healthy state.

-- Sean --

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"Imagination is more important than knowledge." -- Albert Einstein

"All tribal myths are true, for a given value of 'true.'" -- Terry Pratchett

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